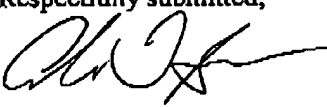
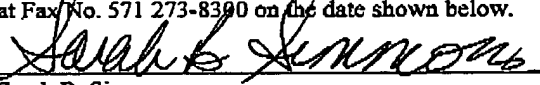



PRE-APPEAL BRIEF REQUEST FOR REVIEW (filed with the Notice of Appeal)		Docket Number 042933/262664
Application Number 10/609,180	Filed June 27, 2003	
First Named Inventor Arjun Krishnan		
Art Unit 2681	Examiner Kamran Afshar	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>Attachment: Remarks/Arguments (five (5) pages)</p> <p>Respectfully submitted,</p> <p> Andrew T. Spence Registration No. 45,699</p> <p>Date <u>9/8/05</u></p> <p>Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Charlotte Office (704) 444-1000 Fax Charlotte Office (704) 444-1111</p>		
<div style="border: 1px solid black; padding: 10px;"><p style="text-align: center;">CERTIFICATION OF FACSIMILE TRANSMISSION</p><p>I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. 571 273-8300 on the date shown below.</p><p>  Sarah B. Simmons Date <u>September 8, 2005</u></p></div>		

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REMARKS/ARGUMENTS

This communication is filed in response to the final Official Action of June 15, 2005. Initially, Applicant appreciates the Examiner taking the time to conduct a telephone interview with Applicant's undersigned attorney regarding the final Official Action. Nonetheless, the final Official Action continues to reject Claims 1-3, 5-11, 13-19 and 21-25, and now rejects previously presented Claims 26-28, under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,794,156 to Alanara. In addition, the final Official Action continues to reject the remaining claims, namely Claims 4, 12 and 20, under 35 U.S.C. § 103(a) as being unpatentable over the Alanara patent, in view of U.S. Patent No. 5,832,060 to Corlett et al. As explained below, however, Applicant respectfully submits that the claimed invention of the present application is patentably distinct from the Alanara patent and the Corlett patent, taken individually or in combination. In view of the remarks presented herein, Applicant respectfully requests reconsideration and reversal of all of the aforementioned rejections.

As explained in response to the first Official Action, the Alanara patent discloses a cellular communication system with enhanced priority access and channel assignment functions. As cited by the Official Action against the claims of the present application, the Alanara patent explains the Priority Access and Channel Assignment (PACA) feature of the Time Division Multiple Access (TDMA) communication system, as such is provided by the standard IS-136 (see FIG. 3). More particularly, the Alanara patent discloses that, in accordance with the PACA feature of IS-136, a page message is sent to the mobile station on a control channel (with a distinctive alert message), after which the mobile station sends a response (see FIG. 3, steps 1 and 2). Upon receiving the response, the serving mobile switching center (MSC) allocates a traffic channel (TCH) to the mobile station and notifies the mobile station of this allocation, to which the mobile station may respond with a TCH allocation acknowledgement (ACK) message (see FIG. 3, steps 3 and 4). After receiving the TCH allocation, the mobile station re-tunes to the allocated traffic channel, starts TCH transmission, and alerts the user to an incoming call (see FIG. 3, step 5). If the user responds to the alert by answering the call, the mobile station sends a message to the system that the user has answered (see FIG. 3, step 6); otherwise, if the user does not answer in a predetermined time, the call is terminated. Presuming the user answers the call,

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the system sends an origination message to an external network, and the call proceeds as a normal origination with the mobile station entering the conversation state (*see* FIG. 3, steps 7 and 8).

In accordance with one aspect of the claimed invention of the present application, as recited by independent Claim 1, a method of delivering a service (e.g., voice message service) to a mobile station includes receiving an alert message to thereby initiate a call to the mobile station, where the alert message is received by the mobile station from a network entity (e.g., Base Station/Mobile Switching Center/Interworking function – BML) over a traffic channel. Thereafter, a conversation or information transfer state is entered based upon the alert message without the initiated call first being answered. As further recited, the conversation or information transfer state is entered such that the service can be delivered to the mobile station.

In the first Official Action, and now the final Official Action, the Examiner alleges that the Alanara patent disclosure of receiving a page message (with a distinctive alert) at the mobile station (*see* FIG. 3, step 1; and col. 1, ll. 63-64) corresponds to the recited step of receiving an alert message to initiate a call to the mobile station. The first and final Official Actions then allege that the Alanara patent disclosure of the mobile station sending a traffic channel acknowledgement (ACK) in response to a traffic channel (THC) allocation notification (*see* FIG. 3, step 4; and col. 1, ll. 64-66) corresponds to the recited step of entering a conversation or information transfer state based upon the alert message without the initiated call first being answered. For the recited limitation of entering the conversation or information transfer state based upon the alert message such that the service can be delivered to the mobile station, the Examiner cites the Alanara patent disclosure of the mobile station re-tuning to the allocated traffic channel, alerting the user, and if the user answers the call, notifying the system of the answered call such that the call proceeds as a normal origination (*see* FIG. 3, steps 5-8; and col. 1, l. 66 – col. 2, l. 9)

In contrast to the allegations of the final Official Action, however, Applicant respectfully submits that receiving a page message (with distinctive alert) at the mobile station, as disclosed by the Alanara patent with reference to step 1 of FIG. 3 cannot reasonably correspond to the recited step of receiving an alert message to initiate a call to the mobile station. In this regard, as

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explicitly disclosed by the Alanara patent, "at step 1 a page message is sent to the mobile station on a control channel (with a distinctive alert message)." Alanara Patent, col. 1, ll. 60-62 (emphasis added). In contrast, the alert message of independent Claim 1 is received over a traffic channel. In fact, while the Alanara patent discloses that the page message with distinctive alert (alleged to correspond to an alert received over a traffic channel) is received at the mobile station at step 1 of FIG. 3, the mobile station of the Alanara patent does not even tune to a traffic channel until step 5. In the response to arguments section in the final Official Action, the Examiner even conceded that the Alanara patent discloses sending an alert message before a traffic channel is allocated to the mobile station. Clearly, then, the page message with distinctive alert disclosed by the Alanara patent cannot reasonably correspond to the alert message transmitted over the traffic channel as recited in independent Claim 1.

Applicant also respectfully submits that the mobile station's acknowledgement of its traffic channel allocation, as disclosed by the Alanara patent with respect to step 4 of FIG. 3, cannot reasonably correspond entering a conversation or information transfer state based upon an alert message without the initiated call first being answered, as recited by independent Claim 1. In this regard, as indicated above, the mobile station does not even tune to an allocated traffic channel until the subsequent step 5. Thus, the traffic channel allocation acknowledgement cannot be sent based upon an alert message received by the mobile station over the traffic channel, as is the entering step of the claimed invention.

Under a more reasonable interpretation, one could argue (although expressly not admitted as such) that the Alanara patent disclosure of the mobile station alerting the user to an incoming call (*see* FIG. 3, step 5) corresponds to the recited receiving step. Even under this interpretation, however, the Alanara patent does not teach or suggest entering a conversation or information transfer state based upon the alert message without first answering an initiating call, as recited by independent Claim 1. As explained above, after allocating a traffic channel (TCH) to the mobile station, the mobile station of the Alanara patent re-tunes to the allocated traffic channel, starts TCH transmission, and alerts the user to an incoming call. If the user responds to the alert by answering the call, the mobile station sends a message to the system that the user has answered (*see* FIG. 3, step 6), and the call proceeds as a normal origination (*see* FIG. 3, steps 7 and 8);

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otherwise, the call is terminated. Thus, in accordance with the Alanara patent, a call must be answered before the mobile station enters a state (conversation or information transfer) such that a service can be delivered to the mobile station. In contrast, in accordance with the claimed invention, the mobile station enters the conversation or information transfer state without the initiated call first being answered.

As explained in the specification of the present application, communication systems like IS-136 require the user to be alerted to an incoming call for a predetermined amount of time before terminating the call, or until the user answers the incoming call. During this predetermined amount of time, however, the mobile station occupies a traffic channel allocated to the mobile station. Accordingly, in contrast to the method shown and described with respect to FIG. 3 of the Alanara patent, the claimed invention provides for entering a conversation or information transfer state without first answering the initiating call, the claimed invention thereby reducing the period of time the mobile station occupies the allocated traffic channel.

Applicant therefore respectfully submits that the claimed invention of independent Claim 1, and by dependency Claims 2-8 and 26, is patentably distinct from the Alanara patent. Applicants also respectfully submit that the independent Claims 9, 17 and 25 each recite subject matter similar to that of independent Claim 1. That is, independent Claims 9, 17 and 25 each recite receiving an alert message over a traffic channel, and entering one of a conversation and information transfer state based upon the alert message without the initiate call first being answered. Accordingly, Applicant respectfully submits that independent Claims 9, 17 and 25, and by dependency Claims 10-16, 18-24, 27 and 28, are patentably distinct from the Alanara patent for at least the same reasons given above with respect to independent Claim 1.

The final Official Action also rejects Claims 4, 12 and 20 as being unpatentable over the Alanara patent in view of the Corlett patent. Like the Alanara patent, the Corlett patent, which focuses on call-back messaging, does not teach or suggest entering a conversation or information transfer state without first answering the initiating call, the state being entered based upon an alert message received over a traffic channel, as recited by the claimed invention of independent Claims 1, 9, 17 and 25. Applicants therefore respectfully submit that the claimed invention of independent Claims 1, 9, 17 and 25, and by dependency Claims 2-8, 10-17, 18-24 and 26-28, is

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patentably distinct from the Corlett patent. Accordingly, as neither the Alanara patent nor the Corlett patent teach or suggest at least the same elements of the claimed invention, the combination of the Alanara patent and Corlett patent likewise do not teach or suggest the claimed invention.

CONCLUSION

For at least the foregoing reasons, Applicants respectfully request that the rejections be reversed.

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